



**CALIFORNIA BOARD OF ACCOUNTANCY**

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# Initial Statement of Reasons

*Hearing Date: September 16, 2005*

## **CALIFORNIA BOARD ACCOUNTANCY**

### **INITIAL STATEMENT OF REASONS**

Hearing Date: September 16, 2005

Subject Matter of Proposed Regulations: Exam, Licensure, Certification of Experience

#### **Amend Section 8.1 of Title 16 of the California Code of Regulations.**

##### **Specific Purpose:**

This proposal would amend Section 8.1 to indicate that the nine-month time periods during which the Authorization to Test and the Notice to Schedule remain open may be extended by the Board because the applicant was prevented from testing because of the occurrence of specified events, including death of an immediate family member, catastrophic illness, natural disaster, non-issuance of a visa for travel to the U.S. for foreign candidates, or other good cause. Amendments also indicate the documentation that will be required to demonstrate the occurrence of these events.

##### **Factual Basis/Rationale:**

This change is necessary to more effectively meet the needs of applicants for the computer-based Uniform Certified Public Accountant Examination who have demonstrated their qualifications for the examination but are unable to test during the time frames specified in current Section 8.1 because of extenuating circumstances such as death of an immediate family member, catastrophic illness, or natural disaster. The requirements for documentation are necessary to ensure that the extenuating circumstances are genuine.

#### **Amend Section 12 of Title 16 of the California Code of Regulations.**

##### **Specific Purpose:**

This proposal would delete subsection (e) of Section 12.

##### **Factual Basis/Rationale:**

Current Section 12 specifies the general experience requirement for licensure as a Certified Public Accountant (CPA). Subsection (e) in Section 12 addresses the general experience requirement for out-of-state CPAs applying for the California license pursuant to Business and Professions Code Section 5087. It applies the "four of ten" rule which indicates that an applicant is considered to have met the experience requirement for licensure when he or she has practiced public accountancy as a licensed CPA in another state for four of the last ten years.

The Board has made a determination to apply the “four of ten” rule to its education, examination, and experience requirements for licensure so that the requirements in these three areas do not pose unnecessary barriers to the California license for qualified out-of-state CPAs. (See Attachment A for excerpts from the minutes of the Board meeting in which that policy determination was made.)

To accomplish this, this proposal would delete the “four of ten” provision from Section 12 and relocate the substance of this provision in Section 21 which applies more broadly to out-of-state CPAs seeking the California license.

### **Amend Section 12.5 of Title 16 of the California Code of Regulations.**

#### **Specific Purpose:**

This proposal would delete subsection (g) of Section 12.5.

#### **Factual Basis/Rationale:**

Current Section 12.5 specifies the experience required for an applicant for the California CPA license or the holder of a California CPA license to be authorized to sign reports on attest engagements pursuant to Business and Professions Code Section 5095.

Subsection (g) in Section 12.5 addresses the experience required for out-of-state CPAs applying for the California license pursuant to Business and Professions Code Section 5087 to be authorized to sign reports on attest engagements. It applies the “four of ten” rule which indicates that an applicant is considered to have met the experience requirement to be authorized to sign reports on attest engagements when he or she has been authorized to provide attest services as a CPA in another state for four of the last ten years.

The Board has made a determination to apply the “four of ten” rule to its education, examination, and experience requirements for licensure – and for the authorization to sign report on attest engagements – so that the requirements in these areas do not pose unnecessary barriers to the California license for qualified out-of-state CPAs.

To accomplish this, this proposal would delete the “four of ten” provision from Section 12.5 and relocate the substance of this provision in Section 21 which applies more broadly to out-of-state CPAs seeking the California license.

### **Amend Section 21 of Title 16 of the California Code of Regulations.**

#### **Specific Purpose:**

This proposal would amend Section 21 to add two new subsections. New subsection (b) indicates an out-of-state CPA applying for the California License pursuant to

Business and Professions Code Section 5087 may be considered to have met the education, examination, and experience requirements for licensure if the applicant shows to the satisfaction of the Board that he or she has engaged in the practice of public accounting as a CPA in another state for four of the last ten years.

This proposal would also add a new subsection (c) indicating that an out-of-state CPA applying for the California License pursuant to Business and Professions Code Section 5087 may be considered to have met the attest experience requirements of Business and Professions Code Section 5095 if the applicant shows to the satisfaction of the Board that he or she has been authorized to provide attest services and engaged in the practice of public accounting as a CPA in another state for four of the last ten years.

In addition, this proposal would label existing Section 21 as subsection (a) and delete the periods from the abbreviation “CPA.”

### **Factual Basis/ Rationale:**

The Board has made a determination to apply the “four of ten” rule to its education, examination, and experience requirements for licensure, and to the authorization to sign report on attest engagements so that the requirements in these areas do not pose unnecessary barriers to the California license for qualified out-of-state CPAs.

To accomplish this, this proposal would delete provisions related to the “four of ten” rule from Sections 12 and 12.5 which specify experience requirements, and add the substance of those provisions to Section 21 which applies more broadly to out-of-state CPAs seeking the California license pursuant to Business and Professions Code Section 5087.

Subsection (b) of Section 21 applies the “four of ten” rule to the education, examination, and experience required for licensure. Subsection (c) applies the “four of ten” rule to the experience required for the authorization to sign reports on attest engagements. For consistency, both Subsections (b) and (c) require that the applicant has engaged in the practice of public accounting for four of the last ten years.

The very minor changes to the first paragraph of Section 21 are necessary for consistency, clarity, and currency.

### **Amend Section 69 of Title 16 of the California Code of Regulations.**

#### **Specific Purpose:**

Section 69 addresses the certification of an applicant’s experience. This proposal would amend subsection (d) of Section 69 to add references to Section 5095 of the Business and Professions Code and Section 12.5 of these regulations.

**Factual Basis:**

Business and Professions Code Section 5095 establishes the experience requirements for an applicant for the California CPA license or the holder of a California CPA license to be authorized to sign reports on attest engagements. Section 12.5 implements and makes specific those requirements. Adding references Section 5095 and Section 12.5 is necessary so that Section 69 contains references to statutes and regulations that are appropriate and current.

THE FOLLOWING APPLY TO THE PROPOSAL AS A WHOLE

**Underlying Data:** See Attachment A.

**Business Impact**

These regulations will have no adverse economic impact on businesses. Instead the amendments to Section 8.1, 12, 12.5, and 21 are likely to benefit individuals seeking to schedule taking the Uniform Certified Public Accountant Examination (Section 8.1) and out-of-state CPAs applying for the California CPA license (Sections 12, 12.5, and 21). Amendments to Section 69 are technical in nature.

**Specific Technologies or Equipment:**

These regulations do not mandate the use of specific technologies or equipment.

**Consideration of Alternatives:**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

As an alternative to the amendments to Sections 12, 12.5, and 21, the Board considered the option of evaluating, on a case-by-case basis, whether an out-of-state CPA applying pursuant to Section 5087 was licensed under standards that are substantially equivalent to the standards in the California Accountancy Act. This alternative was rejected because the Board concluded a general policy, implemented by appropriate regulations, would be more efficient and consistent.

Attachment 3 of the issue paper provided in Attachment A contains alternative text for Section 21 with a note to delete the “four of ten” rule in Sections 12 and 12.5. The alternative was rejected because it failed to address the experience required to be authorized to sign reports on attest engagements and because the language unnecessarily duplicated Business and Professions Code Section 5087.



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## Attachment A

DEPARTMENT OF CONSUMER AFFAIRS  
 CALIFORNIA BOARD OF ACCOUNTANCY

**FINAL**

### MINUTES OF THE November 14, 2003 BOARD MEETING

Holiday Inn Capitol Plaza  
 300 J Street  
 Sacramento, CA 95814  
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#### I. Call to Order.

President Wendy Perez called the meeting to order at 8:12 a.m. on Friday, November 14, 2003, at the Holiday Inn Capitol Plaza in Sacramento. The Board went into closed session at 8:15 a.m. to consider Agenda Item III.A. The Board reconvened into open session at 9:30 a.m. and the Board and ALJ Denny R. Davis heard agenda items X.A-B and then convened into closed session to deliberate and discuss Agenda Item X.C. The Board reconvened into open session at 12:10 p.m. The Board broke for lunch at 1:35 p.m. and reconvened at 2:23 p.m. The Board adjourned at 5:15 p.m.

#### Board Members

#### November 14, 2003

Wendy S. Perez, President	8:12 a.m. to 5:15 p.m.
Ian Thomas, Vice President	8:12 a.m. to 5:15 p.m.
Joseph Tseng, Secretary-Treasurer	8:12 a.m. to 5:15 p.m.
Ronald Blanc	8:12 a.m. to 5:15 p.m.
Richard Charney	8:12 a.m. to 5:15 p.m.
Ruben Davila	8:12 a.m. to 5:15 p.m.
Charles Drott	8:12 a.m. to 5:15 p.m.
Sally A. Flowers	8:12 a.m. to 5:05 p.m.
Gail Hillebrand	8:12 a.m. to 5:15 p.m.
Thomas Iino	8:12 a.m. to 5:15 p.m.

B. State Budget Crisis and its Impact on CBA Operations.

No report was given due to time constraints.

C. IQAB Mutual Recognition Agreement with the Canadian Institute of Chartered Accountants, the Mexican Direccion General de Profesiones de la Secretaria de Educacion Publica and the Instituto Mexicano de Contadores Publicos.

This agenda item was deferred.

D. Report on the November 2-3, 2003, CPA Examination.

Ms. Crocker reported that 8,613 candidates sat for the exam in California with the no show rate at 19.3 percent, the lowest in some time. Ms. Crocker noted that four candidates were expelled for possessing cell phones, three in Pleasanton and one in Pomona. There were 39 late candidates who were denied entry, 18 in Pleasanton, 16 in Pomona and two in Sacramento. Ms. Crocker thanked Mr. Schultz who took photos at the Pomona site. Ms. Hillebrand indicated that the exam was incredibly well run and Mr. Waldman concurred adding that he was very impressed.

E. Issue Paper: Qualifying Education of Out-of-State Licensees Applying for Licensure in California.

Ms. Crocker reported that recently the Board had received licensure applications from out-of-state CPAs who are unable to meet the Board's educational requirements which were revised effective January 1, 2002. Ms. Crocker indicated that these are licensees who have been practicing for some time but are precluded from qualifying under the "Four of Ten Rule" as a result of their educational deficiencies. Ms. Crocker requested direction from the Board as to how to address this situation.

**It was moved by Ms. Sos, seconded by Ms. Flowers, and carried to pursue a regulation change to allow the "Four of Ten Rule" to apply to licensure generally and not just to experience. The motion included policy direction to staff to approve the affected pending applicants until the regulations are adopted. Mr. Waldman voted no.**

F. 2003 CPA Examination Review Board Management Letter.

Ms. Crocker presented this agenda item for the Board's review.

## M e m o r a n d u m

Board Agenda Item VI.E  
November 14, 2003

To Wendy S. Perez, President  
Members, California Board of Accountancy

Date : November 3, 2003

Telephone : (916) 263-3982

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From Patti Franz  
Licensing Manager

Subject Qualifying Education for Out-of-State Licensees Applying for Licensure in California

Attached for the Board's consideration is an issue paper discussing California's current educational requirements relative to applications from out-of-state CPAs seeking a California license.

The issue paper proposes modifications to Section 21 of the Board's regulations based on the Uniform Accountancy Act and current California requirements. If the Board approves the proposed revisions, a public hearing can be scheduled for the spring of 2004.

PLF:plf

Attachment

## **QUALIFYING EDUCATION OF OUT-OF-STATE LICENSEES APPLYING FOR LICENSURE IN CALIFORNIA**

### **Issue:**

Recently, the Board has received licensure applications from out-of-state CPAs who are unable to meet the Board's educational requirements. Though these CPAs have been practicing in their home states for several years, under California's current statutes and regulations, they do not qualify for licensure because of educational deficiencies. Guidance from the Board is needed regarding how to address this matter.

### **Background/Discussion:**

California's educational requirements were upgraded, effective January 1, 2002, to require, at a minimum, a baccalaureate degree with 24 units in accounting and 24 units in business-related subjects. The objective of this change was to make the licensure requirements for new applicants more consistent with the Uniform Accountancy Act (UAA) and the requirements in most other states.

Prior to January 1, 2002, there were several educational options for applying for licensure in California including an option where no degree was required. The minimum core course requirement for all applicants was 10 semester units of accounting. This requirement was relatively easy for out-of-state CPAs to meet.

At that time, the experience requirement was of greater concern since California's experience requirement was higher than most other states. (Attest experience was required as well as two to four years of general professional experience.) To address this concern, in 1993 the Board added a provision to its regulations indicating that a CPA licensed in another state would be considered to have met the Board's experience requirement if the CPA had been engaged in the practice of public accounting for five of the 10 years preceding application for the California license. This "rule" was developed by NASBA as a way to facilitate interstate reciprocity. With this rule in place, most out-of-state practicing CPAs were able to meet the experience requirement for licensure. Recently, the rule was modified by NASBA to be "four of the last 10 years," and was subsequently incorporated into Sections 12 and 12.5 of the Board's regulations.

Statutory revisions enacted in 2001 (effective 2002) increased the education required for the California license. Some CPAs who have been licensed for some time in other states have difficulty meeting these new education requirements. For example, one of the pending applicants was originally licensed in New York in 1976. He was licensed in Texas in 1998. At the time of application with the California Board of Accountancy, he provided evidence of a conferred MBA degree from Harvard Business School, including 13.5 semester units of accounting and more than 24 semester units of business-related course work. He also provided evidence of eight additional semester units of accounting course work from Pace University.

Currently, Board staff are holding 19 applications from out-of state CPAs pending the Board's direction on this matter. Each of the CPAs has a baccalaureate degree and has been engaged in the practice of public accountancy for four of the 10 years preceding submission of the application for the California license. The most common educational deficiency involves not having obtained 24 semester units of accounting.

### **Options for Consideration:**

Legal counsel has advised that the Board has some discretion with regard to out-of-state CPAs, and may grant the license based on a determination, under Business and Professions Code Section 5087 (Attachment 1), that the standards under which a CPA was licensed are substantially equivalent to the standards in the California Accountancy Act.

The Board may make this determination on a case-by-case basis after each applicant appeals to the Board, or the Board may adopt a general policy implemented by a regulation with regard to these type of applicants.

If a general policy implemented by a regulation is preferred, the Board may wish to consider applying the "four of ten" rule to licensure as a whole rather than applying it only to experience. This approach is consistent with the UAA which does not require that an out-of-state CPA who meets the "four of ten" rule to also meet the new state's education requirements (See Attachment 2 for the UAA provision).

Attachment 3 provides a draft regulation based on the UAA and current California requirements. If the Board approves the regulation in Attachment 3, a public hearing can be scheduled for the spring of 2004.

## **Attachment 1**

# **BUSINESS AND PROFESSIONS CODE**

## **SECTION 5087**

(a) The board may issue a certified public accountant license to any applicant who is a holder of a valid and unrevoked certified public accountant license issued under the laws of any state, if the board determines that the standards under which the applicant received the license are substantially equivalent to the standards of education, examination, and experience established under this chapter and the applicant has not committed acts or crimes constituting grounds for denial under Section 480. To be authorized to sign reports on attest engagements, the applicant shall meet the requirements of Section 5095.

(b) The board may in particular cases waive any of the requirements regarding the circumstances in which the various parts of the examination were to be passed for an applicant from another state.

## SECTION 6

## ISSUANCE AND RENEWAL OF CERTIFICATES, AND MAINTENANCE OF COMPETENCY

- (a) The Board shall grant or renew certificates to persons who make application and demonstrate (1) that their qualifications, including where applicable the qualifications prescribed by Section 5, are in accordance with the following subsections of this Section or (2) that they are eligible under the substantial equivalency standard set out in Section 23(a)(2) of the Act which requires licensure for those CPAs that establish their principal place of business in another state. The holder of a certificate issued under this Section may only provide attest services, as defined, in a CPA firm that holds a permit issued under Section 7 of this Act.

*COMMENT:* Section 5 sets out the requirements for initial issuance of a certificate; this section provides for the process of application for the initial certificate, as well as for renewal of certificates. It also outlines the process for the issuance of reciprocal certificates for applicants that do not meet the substantial equivalency standard. Applicants that meet the substantial equivalency standard set out in Section 23 receive reciprocity upon complying with the application procedure in Section 6(c)(2). This section also makes it clear that certificate holders may only provide attest services in licensed firms.

- (b) Certificates shall be initially issued, and renewed, for periods of not more than three years but in any event shall expire on the [specified date] following issuance or renewal. Applications for such certificates shall be made in such form, and in the case of applications for renewal, between such dates, as the Board shall by rule specify, and the Board shall grant or deny any such application no later than \_\_\_\_\_ days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or where the Board is not able to determine whether it should be granted or denied, the Board may issue to the applicant a provisional certificate, which shall expire ninety days after its issuance or when the Board determines whether or not to issue or renew the certificate for which application was made, whichever shall first occur.

*COMMENT:* This provision reflects the pattern of some laws now in effect in contemplating a biennial or triennial rather than an annual renewal. The purpose of this is to make it possible to tie the renewal period to the period for completion of the maintenance of competency requirements, as provided by subsection (d) below.

- (c)(1) With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in Section 23(a)(2) of this Act, the Board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon a showing that:

- (A) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this State;

1 (B) The applicant had four years of experience outside of this State of the type  
2 described in Section 5(f) or meets equivalent requirements prescribed by the  
3 Board by rule, after passing the examination upon which the applicant's  
4 certificate was based and within the ten years immediately preceding the  
5 application; and  
6

7 (C) If the applicant's certificate, license, or permit was issued more than four years  
8 prior to the application for issuance of an initial certificate under this Section,  
9 that the applicant has fulfilled the requirements of continuing professional  
10 education that would have been applicable under subsection (d) of this Section.  
11

12 (2) As an alternative to the requirements of Section 6(c)(1) of this Act, a certificate  
13 holder licensed by another state who establishes their principal place of business in  
14 this state shall request the issuance of a certificate from the Board prior to  
15 establishing such principal place of business. The Board shall issue a certificate to  
16 such person who obtains from the NASBA National Qualification Appraisal Service  
17 verification that such individual's CPA qualifications are substantially equivalent to  
18 the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act.  
19

20 (3) An application under this Section may be made through the NASBA Qualification  
21 Appraisal Service.  
22

23 *COMMENT:* Subsection 6(c)(1) of this section offers a means of providing for reciprocal  
24 recognition of licensees of other states who are not eligible under the substantial equivalency  
25 standard set out in Section 23 of this Act. Paragraph 6(c)(1)(B) requires a determination that the  
26 certificate of the other state has been issued on the basis of education and examination  
27 "conditioning" requirements comparable to those of this state, but makes allowance for an  
28 experience requirement as a substitute for these. The reciprocity so offered would be limited to  
29 CPAs-that is, it would exclude "grandfathered" PAs of other jurisdictions-since it rests upon the  
30 applicant having a certificate in the other jurisdiction, and, although there are a few jurisdictions  
31 where certificates have been issued to "grandfathered" public accountants, the term "certificate"  
32 is defined in section 3(d) to refer only to certificates issued after successful completion of the  
33 examination prescribed in section 5 of this Act.  
34

35 Subsection 6(c)(1)(C) is intended to assure that, where an extended period has passed between  
36 issuance of a certificate, license, or permit and the certificate holder's first application for a  
37 certificate in this state, the applicant has fulfilled at least a substantial portion of the CPE  
38 requirements that were applicable to licensees practicing in this state during the same period.  
39

40 Subsection 6(c)(3) makes the NASBA Qualification Appraisal Service available to individuals  
41 who apply for reciprocity under Section 6(c).  
42

43 Subsection 6(c)(2) deals with reciprocity under the substantial equivalency standard. Under  
44 substantial equivalency, licensure is required where the CPA has their principal place of  
45 business. If a CPA relocates to another state and establishes a principal place of business in that  
46 state then they would be required to obtain a certificate in that state. With substantial  
47 equivalency established, however, this application process for an individual would essentially be

## ATTACHMENT 3

### 21. Out-of-State Licensee.

(a) The Board will consider applications filed under Section 5087 from holders of valid unrevoked Certified Public Accountant licenses issued under the laws of any state.

(b) The Board may issue a license to an applicant pursuant to Business and Professions Code Section 5087 provided that the applicant has met the following requirements:

(1) The applicant has passed the examination required for issuance of the certified public accountant license with grades that would have been passing grades at the time in California. The Board may in particular cases waive any of the requirements regarding the circumstances in which the various parts of the examination were to be passed for an applicant from another state.

(2) The applicant has engaged in the practice of public accounting as a licensed certified public accountant in another state for four of the ten years preceding the date of application for a California license.

(c) The Board may deny an application when the facts indicate the applicant has been a California resident before, during or after having obtained a CPA license in another state and when the facts indicate that the applicant's CPA license was obtained in another state to evade otherwise applicable California statutes and rules.

NOTE: Authority cited: Sections 5010 and 5018, Business and Professions Code.

Reference: Sections 5082, ~~and 5087~~, 5092, and 5093, Business and Professions Code.

*(Repeal the provisions the "four of ten rule" in Sections 12 and 12.5.*